

August 9, 1993

CD-93-17(LDV/LDT/SM
ICI/LIMO)

Dear Manufacturer:

SUBJECT: EPA Policy on Cross-Border Sales of California Vehicles--
Impact on Cold Temperature CO Phase-in Requirements

The purpose of this letter is to inform all manufacturers of a policy clarification regarding implementation of Cold CO Phase-in requirements which was recently issued in the enclosed letter to Mazda. Specifically, the letter concerns EPA'S recent revision of its enforcement policy regarding the "place of sale" of California vehicles in those states bordering California or states that have adopted California standards and how this decision might affect compliance with Cold CO Phase-in percentages.

If you have any further questions regarding Cold Temperature CO phase-in requirements, please contact your EPA certification representative.

Sincerely,

Robert E. Maxwell, Director
Certification Division
Office of Mobile Sources

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

ANN ARBOR, MICHIGAN 48105

July 14, 1993

Mr. Shintaro Nakatsuka
Vice President, Environment and Safety
Mazda North America, Inc.
Suite 630
900 Seventeenth Street N. W.
Washington, D.C. 20006

Dear Mr. Nakatsuka:

This letter is in response to a conversation with Mr. Eric Stork on behalf of Mazda, as well as your letter of June 1, 1993 concerning implementation of the Cold Temperature CO Phase-in requirements. Specifically, Mazda is concerned with EPA's recent revision of its enforcement policy regarding the "place of sale" of California vehicles in those states bordering California or states that have adopted California standards pursuant to Section 177 of the Clean Air Act ("Section 177 states") and how this decision might affect compliance with Cold CO phase-in sales percentages.

The applicable regulations contained in 40 CFR 86.094(k)(2)(iii) provide that manufacturers have the choice of including or excluding sales of cars in California and Section 177 states. However, if a manufacturer chooses to exclude sales in California and Section 177 states, then such sales are excluded from both the numerator and denominator of the phase-in calculation. The Cold CO regulations also provide that failure to meet the phase-in requirements will be considered to be a failure to satisfy conditions upon which the Certificate of Conformity was

issued.

Since the time the Cold Temperature CO regulations were promulgated, EPA's policy regarding the sale of California vehicles in states bordering California or a Section 177 state has changed. Under EPA's current policy, manufacturers are permitted to sell vehicles certified only to the California standards in states that border either California or states that have placed into effect California standards adopted pursuant to Section 177 of the Clean Air Act. For the 1994 model year, New York is the only state that has adopted any California motor vehicle standards. Thus, for model year 1994, California LDVs and LDTs may be sold in New Jersey, Connecticut, Pennsylvania, Massachusetts, Vermont, Oregon, Nevada, and Arizona as well as California.

Prior to the change in policy regarding sales of California vehicles in border states, manufacturers had submitted plans based on engine family sales to determine approximate percentage compliance with the Cold CO standards for the 1994 model year. In many cases, these estimates may not have accounted for the possibility of border state sales of California vehicles that might not be in compliance with Federal Cold CO Standards. (For manufacturers who decided to include sales in California and section 177 states in their compliance plans, the possibility of border state sales should not present compliance problems since the manufacturers had already decided to base compliance on sales of both federal and California vehicles.)

In consideration of these unique circumstances the Agency will provide some flexibility to manufacturers if cross-border sales of California-certified vehicles prevent a manufacturer from meeting the phase-in percentages. As a consequence, if a manufacturer chooses to exclude California and Section 177 state sales from their phase-in calculation, and, if it meets the phase-in percentages based on sales of federal vehicles in jurisdictions other than California and Section 177 states, EPA will consider the manufacturer as having satisfied the conditions of the Certificate of Conformity regarding compliance with the phase-in requirement.

We hope this information will assist you in keeping with your final plans for the implementation of model year 1994 Cold CO phase-in requirements. Should you need further guidance please feel free to contact me or Ms. Christine Mikolajczyk of my staff.

Sincerely,

Robert E. Maxwell, Director
Certification Division

cc: Charles Freed, MOD

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